

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

JOHNANAS JOHNSON and JENNIFER
JOHNSON, husband and wife,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

No. 3:20-cv-05581-MJP

PRETRIAL ORDER

I. JURISDICTION

Jurisdiction in this matter is premised upon the Federal Tort Claims Act, 28 U.S.C. § 1346(b) and 2679(b)(1). The United States has waived sovereign immunity for the negligent or wrongful acts or omissions of any federal employee acting within the scope of employment, under circumstances where the United States, if a private person, would be liable to the plaintiff in accordance with the law of the place where the act or omission occurred. 28 U.S.C. § 1346(b). The parties agree that Washington state law substantively governs the claims to be adjudicated at trial in this matter.

Venue is proper under 28 U.S.C. § 1402(b).

PRETRIAL ORDER - 1
3:20-CV-5581-MJP

II. CLAIMS AND DEFENSES

Plaintiffs will pursue at trial the following claims: (1) monetary damages for personal injuries to Plaintiff John Johnson, including economic damages (past medical expenses, wage loss, and property loss) and noneconomic damages (past and future pain and suffering; past and future disability; past and future disfigurement; and past and future loss of enjoyment of life), arising out of the November 10, 2018 motor vehicle collision; and (2) monetary damages for loss of consortium damages to Plaintiff Jennifer Johnson, wife of Plaintiff John Johnson.

The Defendant will pursue the following affirmative defenses and/or claims: (1) Any injuries or damages to the Plaintiffs were not proximately caused by a negligent or wrongful act or omission of any agent, employee or representative of the United States; (2) Plaintiffs failed to mitigate, obviate, diminish or otherwise act to lessen or reduce the injuries, damages and disabilities alleged; (3) Plaintiffs' injuries and damages, if any, were caused by other preexisting or unrelated sicknesses, injuries, or other medical conditions.

III. ADMITTED FACTS

The following facts are admitted by the parties:

1. Plaintiffs John and Jennifer Johnson are husband and wife and residents of Washington.
2. The United States of America is the Defendant, and the Postal Service worker involved in the collision, Michael Murray, was acting as an employee of the United States within the scope of his employment.
3. Plaintiffs have satisfied the administrative exhaustion requirements under the FTCA, 28 U.S.C. § 2401.

- 1 4. A collision occurred on Boone Street in Aberdeen, Washington on November 10, 2018
- 2 at approximately 11:00 a.m., involving a Postal Service LLV¹ driven by Michael
- 3 Murray and a 2016 Kawasaki motorcycle driven by John Johnson.
- 4 5. Boone Street at this location has two southbound lanes, two northbound lanes, and a
- 5 center turn lane.
- 6 6. The speed limit on Boone Street at this location is 35 mph.
- 7 7. Mr. Murray was attempting to turn left onto Boone Street (intending to head south on
- 8 Boone Street) from a driveway/parking lot at the Thai Carrot restaurant when he
- 9 collided with Mr. Johnson's motorcycle.
- 10 8. The collision and a portion of the events leading up to the collision were captured on a
- 11 security camera at a 7-Eleven store.
- 12 9. Mr. Johnson had turned left from MacFarlane Street onto Boone Street, after getting
- 13 gas at a 7-Eleven store when his motorcycle collided with the postal truck.
- 14 10. The right front of the Johnson motorcycle collided with the right front of the LLV.
- 15 11. The Aberdeen Police Department responded to the collision and photographed the
- 16 scene.
- 17 12. The motorcycle slid on its left side on the asphalt roadway after the collision, resulting
- 18 in scraping damage to the left side of the motorcycle.
- 19 13. Mr. Johnson was transported from the scene by ambulance to Grays Harbor
- 20 Community Hospital in Aberdeen.

21
22
23
24 ¹ "LLV" stands for "Long Life Vehicle" and refers to the type of Postal Service vehicle involved in the collision.

1 14. Mr. Johnson had a partial amputation of approximately 1.9 cm of the tip of his right
2 middle finger and an approximately 2.0 cm laceration to the tip of his right index finger
3 with nailbed involvement.

4 15. Mr. Johnson also alleged injuries to his right knee and his tailbone/coccyx.

5 16. After being treated in the Emergency Room on the day of the collision, Mr. Johnson
6 returned to the Emergency Room for further treatment for the fingers on his right hand
7 on November 13, 2018 and November 16, 2018.

8 17. On November 16, 2018, Mr. Johnson had a surgical procedure performed by orthopedic
9 surgeon Erin Kawasaki, M.D.

10 18. Mr. Johnson had follow-up orthopedic care for his right index and middle fingers from
11 Dr. Kawasaki and Greg May, M.D.

12 19. Mr. Johnson had occupational therapy for his right index and middle fingers from Jarod
13 Mann, O.T.R., C.H.T., of Coastal Hand Therapy.

14 20. Mr. Johnson had physical therapy for his wrists and right knee from Harbor Physical
15 Therapy.

16 21. Mr. Johnson also saw physicians at Olympia Orthopedic Associates for his right knee.

17 22. Mr. Johnson's medical bills are: \$38,073.92. The reasonableness and necessity of the
18 medical bills are not disputed.

19 23. Mr. Johnson was working two part-time jobs at the time of the collision. In the
20 mornings, he worked in the cafeteria at Hoquiam Middle School. In the afternoons, he
21 worked at a construction job in Ocean Shores, Washington for Total Building
22 Concepts.
23
24

1 24. Mr. Johnson returned to working at the Hoquiam Middle School cafeteria on February
2 12, 2019.

3 25. The Postal Service issued a letter of warning to Mr. Murray after the collision.

4 **IV. ISSUES OF LAW**

5 The following are the issues of law to be determined by the Court:

- 6 1. Has Plaintiff proved by a preponderance of the evidence that the Postal Service driver
7 breached his duty to exercise reasonable care to Plaintiff John Johnson and was
8 therefore negligent?
- 9 2. If Defendant was negligent, what injuries to Plaintiff John Johnson has Plaintiff proved
10 were proximately caused by that negligence, by a preponderance of the evidence?
- 11 3. What, if any, is the amount of Plaintiff John Johnson's economic damages for:
- 12 a. Past medical expenses
- 13 b. Wage loss
- 14 c. Property damage (total loss of motorcycle)
- 15 4. What, if any, is the amount of Plaintiff John Johnson's noneconomic damages for:
- 16 a. Past and future physical pain and mental suffering
- 17 b. Past and future disability
- 18 c. Past and future disfigurement
- 19 d. Past and future loss of enjoyment of life
- 20 5. What, if any, is the amount of Plaintiff Jennifer Johnson's damages for loss of
21 consortium?

22 **V. EXPERT WITNESSES**

23 The names and addresses of the expert witnesses to be used by each party at the trial and
24 the issue upon which each will testify is:

1 (1) On behalf of plaintiff:

2 Mark Erickson, P.E.
3 Erickson Forensic
4 1800 Blankenship Rd, Suite 355
5 West Linn, OR 97068
6 (503) 201-9213
7 mark@ericksonforensic.com

8 Mr. Erickson is a mechanical engineer specializing in accident reconstruction. He will
9 testify regarding his collision reconstruction analysis.

10 (2) On behalf of the United States:

11 James W. Pritchett, M.D.
12 901 Boren Avenue, #711
13 Seattle, WA 98104
14 (206)-323-1900

15 Dr. Pritchett is an orthopedic surgeon. He will testify regarding his opinions about Mr.
16 Johnson's knee injury.

17 Rajiv Goel, M.D.
18 Sound Hand & Orthopedics
19 4616 25th Avenue N.E., #739
20 Seattle, WA 98105
21 (206)-257-3350

22 Dr. Goel is an orthopedic surgeon. He will testify regarding his opinions about Mr.
23 Johnson's hand injury.

24 VI. OTHER WITNESSES

The names and addresses of witnesses, other than experts, to be used by each party at the
time of trial and the general nature of the testimony of each are:

(a) On behalf of Plaintiffs:

Eyewitnesses:

Johnanas "John" Johnson
c/o Stritmatter Kessler Koehler Moore

1 413 8th Street
2 Hoquiam, WA 98550
3 360-533-2710
4 johnanasjohnson@yahoo.com

5 Mr. Johnson will testify to the facts of the collision and damages issues.

6 Frederick Doe
7 1913 Coolidge Road, # 17
8 Aberdeen, WA 98520
9 360-660-4091
10 fadoe8184@gmail.com

11 Mr. Doe was an eyewitness to the collision and will testify regarding his observations.

12 Michael Murray
13 c/o Matt Waldrop
14 Assistant United States Attorney
15 United States Attorney's Office
16 700 Stewart Street, Suite 5220
17 Seattle, WA 98101

18 Mr. Murray was the driver of the Postal Service LLV and will testify regarding liability
19 issues.

20 **Treating Medical Providers:**

21 Greg May, M.D. – Will Testify
22 Harbor Orthopedic
23 1211 Skyview Drive
24 Aberdeen, WA 98520
360-532-3808
Assistant: Tonya Tisdale -- totisdale@hmgcares.org

Dr. May is an orthopedic surgeon who treated Mr. Johnson. Dr. May will testify regarding the treatment that he provided to Mr. Johnson, as well as treatment provided by his former partner, Erin Kawasaki, D.O., who moved out of town to a different practice, the cause of Mr. Johnson's injuries, the nature and extent of his injuries, and his evaluation and prognosis with regard to the injuries Dr. May treated.

Jarod Mann, O.T.R., C.H.T. – Will Testify
Coastal Hand & Physical Therapy
303 South F Street
Aberdeen, WA
360-970-7894
jarodmann@hotmail.com

Jarod Mann is an occupational therapist whose practice focuses on treatment of hand injuries. Mr. Mann will testify about the treatment that he provided to Mr. Johnson, the limitations that Mr. Johnson has with regard to range of motion and strength due to the injuries to the right index and middle fingers, and how those limitations affect activities with regard to use of his right hand.

Damages Witnesses – Friends and Family:

Jennifer Johnson – Will Testify
c/o Stritmatter Kessler Koehler Moore
413 8th Street
Hoquiam, WA 98550
360-533-2710
johnanasjohnson@yahoo.com

Jennifer Johnson is the spouse of John Johnson and will testify about damages issues.

David Jorgensen – Will Testify
2836 26th Ave NE
Olympia WA 98506
253-632-7031
david.jorgensen@comcast.net

David Jorgensen is a friend of John Johnson and will testify about damages issues.

Mickey “Dan” Daniel Lane – Will Testify
519 J St
Hoquiam, WA 98550
360-593-0352
mickeylane77@gmail.com

Dan Lane is John Johnson’s father-in-law and will testify about damages issues.

Tami Lane – Will Testify
519 J St
Hoquiam, WA 98550
360-593-0350
tamilane62@gmail.com

Tami Lane is John Johnson’s mother-in-law and will testify about damages issues.

Mary Brittin – Will Testify
2433 Sumner Ave
Hoquiam, WA 98550
360-500-9473

1 marybrittinen@comcast.net

2 Mary Brittinen is John Johnson's mother and will testify about damages issues.

3 Justin Graham – Will Testify
4 431 Eklund Ave.
5 Hoquiam, WA 98550
6 360-581-0122
7 grahamfj40@gmail.com

8 Justin Graham is a friend of John Johnson and will testify about damages issues.

9 (b) On behalf of the United States:

10 Records Custodian for Hoquiam School District, No. 28 – May Testify
11 325 West Chesnault Avenue
12 Hoquiam, WA 98550

13 The United States may call a records custodian to discuss Mr. Johnson's payroll and
14 employment records for the Hoquiam School District.

15 Records Custodian for Total Building Concepts, Inc. – May Testify
16 P.O. Box 1956
17 Ocean Shores, WA 98569

18 The United States may call a records custodian to discuss Mr. Johnson's payroll and
19 employment records for Total Building Concepts.

20 Mary Christensen – May Testify
21 c/o Matt Waldrop
22 Assistant United States Attorney
23 United States Attorney's Office
24 700 Stewart Street, Suite 5220
Seattle, WA 98101

Ms. Christensen is a USPS employee and may testify regarding forms she completed
on behalf of the USPS.

VII. EXHIBITS

Plaintiff's Exhibits

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
1	Drone image of 7-Eleven and Boone St	Stipulated	Stipulated		
2	Drone image of 7-Eleven	Stipulated	Stipulated		
3	Drone image of intersection View 1	Stipulated	Stipulated		
4	Drone image of intersection View 2	Stipulated	Stipulated		
5	Drone image of intersection View 3	Stipulated	Stipulated		
6	Drone image of intersection View 4	Stipulated	Stipulated		
7	Drone image of intersection View 5	Stipulated	Stipulated		
8	Drone image of intersection View 6	Stipulated	Stipulated		
9	Drone image of intersection View 7	Stipulated	Stipulated		
10	Drone image of intersection View 8	Stipulated	Stipulated		
11	7-Eleven security camera photo	Stipulated	Disputed	Fed. R. Evid. 611(a)	
12	7-Eleven security camera Image 1 with Labels	Stipulated	Disputed	Fed. R. Evid. 611(a); foundation	
13	7-Eleven security camera Image 3 with Labels	Stipulated	Disputed	Fed. R. Evid. 611(a); foundation	

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
14	7-Eleven security camera images in sequence	Stipulated	Stipulated		
15	Drone image of 7-Eleven camera location 1	Stipulated	Stipulated		
16	Drone image of 7-Eleven camera location 2	Stipulated	Stipulated		
17	Drone image of 7-Eleven camera location 3	Stipulated	Stipulated		
18	Drone image of 7-Eleven camera location 4	Stipulated	Stipulated		
19	7-Eleven video Image 1	Stipulated	Stipulated		
20	7-Eleven video Image 2	Stipulated	Stipulated		
21	7-Eleven video Image 3	Disputed	Disputed	Fed. R. Evid. 611(a); foundation	
22	7-Eleven video Image 4	Stipulated	Stipulated		
23	Drone image of Boone Street overhead 1	Stipulated	Stipulated		
24	Drone image of Boone Street overhead 2	Stipulated	Stipulated		
25	Drone image of Boone Street overhead 3	Stipulated	Stipulated		
26	Drone image of Boone Street overhead 4	Stipulated	Stipulated		
27	Drone image of Boone Street overhead 5	Stipulated	Stipulated		
28	Drone image looking north on Boone	Stipulated	Stipulated		

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
29	Drone image looking west 1	Stipulated	Stipulated		
30	Drone image looking west 2	Stipulated	Stipulated		
31	Drone image looking west 3	Stipulated	Stipulated		
32	Drone image looking south on Boone	Stipulated	Stipulated		
33	Drone image of MacFarlane overview	Stipulated	Stipulated		
34	Drone image of MacFarlane overview	Stipulated	Stipulated		
35	Drone image of mail truck exemplar	Stipulated	Disputed	Relevance	
36	Photo of gas pumps at 7-Eleven	Stipulated	Stipulated		
37	Photo of Boone Street view 1	Stipulated	Stipulated		
38	Photo of Boone Street view 2	Stipulated	Stipulated		
39	View from Thai Carrot 1	Stipulated	Stipulated		
40	View from Thai Carrot 2	Stipulated	Stipulated		
41	View from Thai Carrot 3	Stipulated	Stipulated		
42	View from Thai Carrot 4	Stipulated	Stipulated		
43	View from Thai Carrot 5	Stipulated	Stipulated		
44	View from Thai Carrot 6	Stipulated	Stipulated		
45	Laser scan location 1	Stipulated	Disputed	Relevance	
46	Laser scan location 2	Stipulated	Disputed	Relevance	
47	Laser scan location 3	Stipulated	Disputed	Relevance	

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
48	Laser scan location 4	Stipulated	Disputed	Relevance	
49	Laser scan location 5	Stipulated	Disputed	Relevance	
50	Laser scan location 6	Stipulated	Disputed	Relevance	
51	Laser scan location 7	Stipulated	Disputed	Relevance	
52	Laser scan location 8	Stipulated	Disputed	Relevance	
53	Laser scan location 9	Stipulated	Disputed	Relevance	
54	Photo of Thai Carrot	Stipulated	Stipulated		
55	Photo of Thai Carrot mailboxes	Stipulated	Stipulated		
56	Photo of Thai Carrot driveway and Boone	Stipulated	Stipulated		
57	Photo looking east toward Thai Carrot	Stipulated	Stipulated		
58	Photo of Thai Carrot Driveway	Stipulated	Stipulated		
59	Photo looking east from 7-Eleven	Stipulated	Stipulated		
60	Photo of damage to postal truck -- labeled	Disputed	Disputed	Fed. R. Evid. 611(a); foundation; relevancy	
61	Erickson illustration 1 -- large	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	
62	Erickson illustration 1 -- side by side	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
63	Erickson illustration 2 -- large	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	
64	Erickson illustration 2 -- side by side	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	
65	Erickson illustration 2 -- with labels	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	
66	Erickson illustration 3 -- large	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	
67	Erickson illustration 3 -- side by side	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	
68	Erickson illustration 3 -- with labels	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	
69	Erickson illustration 4 -- side by side	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	
70	Finger joints illustration 1	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	
71	Finger joints illustration 2	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation,	

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
				relevance, authenticity	
72	Finger joints illustration 3	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	
73	Google Earth overhead view of the intersection	Stipulated	Stipulated		
74	Identification of scene evidence 1	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	
75	Identification of scene evidence 2	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance, authenticity	
76	Photo of Kawasaki – right front 1	Stipulated	Stipulated		
77	Photo of Kawasaki – right side 1	Stipulated	Stipulated		
78	Photo of Kawasaki – right front 2	Stipulated	Stipulated		
79	Photo of Kawasaki –front tire	Stipulated	Stipulated		
80	Photo of Kawasaki – handlebar 1	Stipulated	Stipulated		
81	Photo of Kawasaki – handlebar 2	Stipulated	Stipulated		
82	Photo of Kawasaki – handlebar 3	Stipulated	Stipulated		

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
83	Photo of Kawasaki – right front 3	Stipulated	Stipulated		
84	Photo of Kawasaki – front tire and right turn lights 1	Stipulated	Stipulated		
85	Photo of Kawasaki – right front turn light	Stipulated	Stipulated		
86	Photo of Kawasaki – right front 4	Stipulated	Stipulated		
87	Photo of Kawasaki – front tire and right turn light 2	Stipulated	Stipulated		
88	Photo of Kawasaki – broken pieces 1	Stipulated	Stipulated		
89	Photo of Kawasaki – broken pieces 2	Stipulated	Stipulated		
90	Photo of Kawasaki – left front	Stipulated	Stipulated		
91	Photo of Kawasaki – left rear scrape	Stipulated	Stipulated		
92	Photo of Kawasaki – light	Stipulated	Stipulated		
93	Photo of Kawasaki – turn bulb 1	Stipulated	Stipulated		
94	Photo of Kawasaki – turn bulb 2	Stipulated	Stipulated		
95	Photo of Kawasaki – turn bulb 3	Stipulated	Stipulated		
96	Photo of Kawasaki – turn bulb 4	Stipulated	Stipulated		

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
97	Photo of Kawasaki – turn bulb 5	Stipulated	Stipulated		
98	Photo of Kawasaki – turn bulb 6	Stipulated	Stipulated		
99	Photo of Kawasaki – turn bulb 7	Stipulated	Stipulated		
100	Photo of Kawasaki – turn bulb 8	Stipulated	Stipulated		
101	Photo of Kawasaki – turn bulb 9	Stipulated	Stipulated		
102	Photo of Kawasaki – turn bulb 10	Stipulated	Stipulated		
103	Photo of Kawasaki – head light 1	Stipulated	Stipulated		
104	Photo of Kawasaki – head light 2	Stipulated	Stipulated		
105	Photo of Kawasaki – turn bulb 11	Stipulated	Stipulated		
106	Photo of Kawasaki – turn bulb 12	Stipulated	Stipulated		
107	Photo of Kawasaki – turn bulb 13	Stipulated	Stipulated		
108	Photo of Kawasaki – right rear lights	Stipulated	Stipulated		
109	Photo of Kawasaki – turn light 14	Stipulated	Stipulated		
110	Photo of Kawasaki – turn light 15	Stipulated	Stipulated		

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
111	Photo of Kawasaki – left rear lights	Stipulated	Stipulated		
112	Photo of Kawasaki – left rear lights	Stipulated	Stipulated		
113	Photo of Kawasaki – turn bulb 16	Stipulated	Stipulated		
114	Photo of Kawasaki – right side 2	Stipulated	Stipulated		
115	Laser scan image of scene	Disputed	Disputed	Fed. R. Evid. 611(a), Relevance	
116	Letter of warning to Michael Murray	Stipulated	Stipulated	Subject to Protective Order	
117	Life expectancy table	Stipulated	Stipulated		
118	Medical record – Dr. Kawasaki consultation 11/16/18	Stipulated	Stipulated		
119	Medical record – Grays Harbor Community Hospital – ER 11/10/18	Stipulated	Stipulated		
120	Medical record – Harbor Orthopedic 9/8/21	Stipulated	Stipulated		
121	Medical record – Harbor Orthopedic 1/16/19 visit	Stipulated	Stipulated		
122	Medical record – Harbor Orthopedic 4/16/19 visit	Stipulated	Stipulated		
123	Medical record – Harbor	Stipulated	Stipulated		

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
	Orthopedic 11/30/18 visit				
124	Medical record – Jarod Mann report 8/12/21	Stipulated	Stipulated		
125	Medical record – Jarod Mann report 12/3/18	Stipulated	Stipulated		
126	Medical Expense Summary	Stipulated	Disputed	Relevancy,	
127	Motorcycle bill of sale	Stipulated	Stipulated		
128	Motorcycle damage labeled	Disputed	Disputed	Fed. R. Evid. 611(a), Relevance, foundation	
129	Photo on motorcycle trip 1	Stipulated	Stipulated		
130	Photo on motorcycle trip 2	Stipulated	Stipulated		
131	Murray illustration of point of impact	Stipulated	Stipulated		
132	Payroll records – Hoquiam School District	Stipulated	Stipulated		
133	Payroll records – Total Building Concepts 10/18 to 5/19	Stipulated	Stipulated		
134	Payroll records – Total Building Concepts 9/18 and 10/18	Stipulated	Stipulated		
135	Photo – fingers in hospital 1	Stipulated	Stipulated		
136	Photo –hand in hospital 2	Stipulated	Stipulated		
137	Photo –hand in hospital 3	Stipulated	Stipulated		
138	Photo –hand in hospital 4	Stipulated	Stipulated		

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
139	Photo – in hospital bed 1	Stipulated	Stipulated		
140	Photo – in hospital bed 2	Stipulated	Stipulated		
141	Photo – in hospital bed 3	Stipulated	Stipulated		
142	Photo – preinjury hand	Stipulated	Stipulated		
143	Photo at Camp Muir 1	Stipulated	Stipulated		
144	Photo at Camp Muir 2	Stipulated	Stipulated		
145	Photo at Mt. Adams 1	Stipulated	Stipulated		
146	Photo at Mt. Adams 2	Stipulated	Stipulated		
147	Photo at Mt. Elinor 1	Stipulated	Stipulated		
148	Photo at Mt. Elinor 2	Stipulated	Stipulated		
149	Photo at Mt. Rainier 1	Stipulated	Stipulated		
150	Photo at Mt. Rainier 2	Stipulated	Stipulated		
151	Photo at Mt. Shasta	Stipulated	Stipulated		
152	Photo of both hands dated 11/21/18	Stipulated	Stipulated		
153	Photo of clothing -- jacket	Stipulated	Stipulated		
154	Photo of clothing -- pants	Stipulated	Stipulated		
155	Photo of fingertip 1	Stipulated	Stipulated		
156	Photo of fingertip 2	Stipulated	Stipulated		
157	Photo of fingers dated 1/4/19	Stipulated	Stipulated		
158	Photo of fingers dated 1/14/19	Stipulated	Stipulated		
159	Photo of fingers dated 2/1/19	Stipulated	Stipulated		

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
160	Photo of fingers dated 11/15/18	Stipulated	Stipulated		
161	Photo of fingers dated 11/18/18 (1)	Stipulated	Stipulated		
162	Photo of fingers dated 11/18/18 (2)	Stipulated	Stipulated		
163	Photo of fingers dated 11/18/18 (3)	Stipulated	Stipulated		
164	Photo of fingers dated 11/21/18	Stipulated	Stipulated		
165	Photo of fingers dated 12/2/18	Stipulated	Stipulated		
166	Photo of helmet 1	Stipulated	Stipulated		
167	Photo of helmet 2	Stipulated	Stipulated		
168	Photo of helmet 3	Stipulated	Stipulated		
169	Photo of John, Emma and Jenny Johnson	Stipulated	Disputed	Relevance	
170	Photo of left-hand brace dated 12/3/18	Stipulated	Stipulated		
171	Photo of middle finger dated 11/11/18	Stipulated	Stipulated		
172	Photo of palm of hand dated 11/18/18 -- 1	Stipulated	Stipulated		
173	Photo of palm of hand dated 11/18/18 -- 2	Stipulated	Stipulated		
174	Photo of right hand dated 1/4/19 - 1	Stipulated	Stipulated		
175	Photo of right hand dated 1/4/19 -- 2	Stipulated	Stipulated		
176	Photo of right hand dated 11/21/18 -- 1	Stipulated	Stipulated		

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
177	Photo of right hand dated 11/21/18 -- 2	Stipulated	Stipulated		
178	Photo of soccer team	Stipulated	Disputed	Relevance	
179	Photo snowboarding at White Pass	Stipulated	Stipulated		
180	Photo with braces dated 11/21/18	Stipulated	Stipulated		
181	Police photo – collision scene 0001	Stipulated	Stipulated		
182	Police photo – collision scene 0002	Stipulated	Stipulated		
183	Police photo – collision scene 0003	Stipulated	Stipulated		
184	Police photo – collision scene 0004	Stipulated	Stipulated		
185	Police photo – collision scene 0005	Stipulated	Stipulated		
186	Police photo – collision scene 0006	Stipulated	Stipulated		
187	Police photo – collision scene 0007	Stipulated	Stipulated		
188	Police photo – collision scene 0008	Stipulated	Stipulated		
189	Police photo – collision scene 0009	Stipulated	Stipulated		
190	Police photo – collision scene 0010	Stipulated	Stipulated		
191	Police photo – collision scene 0011	Stipulated	Stipulated		

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
192	Police photo – collision scene 0012	Stipulated	Stipulated		
193	Police photo – collision scene 0013	Stipulated	Stipulated		
194	Police photo – collision scene 0014	Stipulated	Stipulated		
195	Police photo – collision scene 0015	Stipulated	Stipulated		
196	Police photo – collision scene 0016	Stipulated	Stipulated		
197	Police photo – collision scene 0017	Stipulated	Stipulated		
198	Police photo – collision scene 0018	Stipulated	Stipulated		
199	Police photo – collision scene 0019	Stipulated	Stipulated		
200	Police photo – collision scene 0020	Stipulated	Stipulated		
201	Police photo – collision scene 0021	Stipulated	Stipulated		
202	Police photo – collision scene 0022	Stipulated	Stipulated		
203	Postal Service accident report PS 1769	Stipulated	Stipulated		
204	Postal Service accident report with Murray Statement Standard Form	Stipulated	Stipulated		

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
205	Postal Service Driving Guidelines 1	Stipulated	Stipulated		
206	Postal Service Driving Guidelines 2	Stipulated	Stipulated		
207	Postal Service Driving Regulations	Stipulated	Stipulated		
208	Requests for Admission – medical expenses	Stipulated	Stipulated		
209	Summary of dates of medical treatment	Disputed	Disputed	Fed. R. Evid. 1006, Foundation, relevance, authenticity	
210	Summary of time lost from work	Disputed	Disputed	Fed. R. Evid. 1006, Foundation, relevance, authenticity	
211	Summary of wage loss	Disputed	Disputed	Fed. R. Evid. 1006, Foundation, relevance, authenticity	
212	Photo of turn bulb hot shock	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, Relevance, authenticity	
213	Video of the collision	Stipulated	Stipulated		
214	Video of the collision -- Combined	Stipulated	Stipulated		
215	Video of Johnson arriving at 7-Eleven	Stipulated	Stipulated		
216	Video of Johnson getting gas	Stipulated	Stipulated		

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
217	Video of Johnson preparing to leave 7-Eleven	Stipulated	Stipulated		
218	Video – laser scan of the incident site	Stipulated	Disputed	Fed. R. Evid. 611(a), Relevance	
219	Video – laser scan of the Kawasaki	Stipulated	Disputed	Fed. R. Evid. 611(a), Relevance	
220	Video – postal truck at 7-Eleven	Stipulated	Stipulated		
221	Drone Video – security camera – 7-Eleven	Stipulated	Disputed	Fed. R. Evid. 611(a), relevance	
222	Video – site approach	Stipulated	Disputed	Fed. R. Evid. 611(a), Relevance	
223	Washington State Driver Guide Section 3 pages 23-25	Stipulated	Stipulated		
224	CAD file – Three-dimensional computer model of the incident scene, including the vehicles. Includes laser scan measurements at the crash site and of the motorcycle.	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance,	
225	Illustration of a Jamar Dynamometer	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance	
226	Illustration of Pinch Testing	Disputed	Disputed	Fed. R. Evid. 611(a), Foundation, relevance,	

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted

Defendant's Exhibits

Exh. No.	Description	Authenticity	Admissibility	Objection	Admitted
300	USPS Completed Training for Michael Murray (USAO 528)	Stipulated	Stipulated		
301	USPS Form 1700 (USAO 1-8)	Stipulated	Disputed	Hearsay – FRE 802	
302	Murray Statement to Aberdeen PD (USAO 388)	Stipulated	Disputed	Hearsay – FRE 802	
303	Johnson Statement to Aberdeen PD (USAO 389)	Stipulated	Stipulated		
304	F. Doe Statement to Aberdeen PD (USAO 390)	Stipulated	Stipulated		
305	Aberdeen Fire Department Note (USAO 743 – 746)	Stipulated	Stipulated		
306	Accident Scene Photos by USPS (USAO 1094 – 1100)	Stipulated	Stipulated		
307	2-27-12 Lumbar X-Ray (USAO 1207)	Stipulated	Disputed	FRE 402 - - Relevance – subject	

				of motion in limine	
308	5-10-12 Lumbar Block (USAO 1208-1209)	Stipulated	Disputed	FRE 402 - - Relevance – subject of motion in limine	
309	10-15-14 NW Center for Integrative Medicine Note (USAO 1939)	Stipulated	Disputed	FRE 402 - - Relevance – subject of motion in limine	
310	8-14-13 NW Center for Integrative Medicine Note (USAO 1947-1948)	Stipulated	Disputed	FRE 402 - - Relevance – subject of motion in limine	
311	4-1-15 Right Toe X-Ray (USAO 1212)	Stipulated	Disputed	FRE 402 - - Relevance	

				– subject of motion in limine	
312	4-4-16 Note from Dr. Tronvig (USAO 1302-1303)	Stipulated	Disputed	FRE 402 - - Relevance – subject of motion in limine	
313	7-26-16 Note from Dr. Tronvig (USAO 1318-1319)	Stipulated	Disputed	FRE 402 - - Relevance – subject of motion in limine	
314	11-10-18 CT Scan of Pelvis (USAO 136-137)	Stipulated	Stipulated		
315	11-10-18 Right Ankle X-Ray (USAO 870)	Stipulated	Stipulated		
316	11-10-18 Right Wrist X-Ray (USAO 871)	Stipulated	Stipulated		
317	11-10-18 Right Hand X-Ray (USAO 872)	Stipulated	Stipulated		
318	11-13-18 ER Note (USAO 215 – 218)	Stipulated	Stipulated		
319	11-16-18 ER Note (USAO 209-213)	Stipulated	Stipulated		
320	11-26-2018 Kawasaki Note (USAO 854 – 858)	Stipulated	Stipulated		
321	11-26-18 X-Ray Lumbar Spine (USAO 1219)	Stipulated	Stipulated		

322	Harbor Physical Therapy Lower Extremity Patient Outcome 1-23-2019 (USAO 960 – 961)	Stipulated	Stipulated		
323	Harbor Physical Therapy 2-4-2019 Note (USAO 951 – 952)	Stipulated	Stipulated		
324	Harbor Physical Therapy 2-11-2019 Quick DASH (USAO 1019)	Stipulated	Stipulated		
325	Harbor Physical Therapy 2-11-19 Note (USAO 946 – 947)	Stipulated	Stipulated		
326	Harbor Physical Therapy 2-13-2019 Note (USAO 944 – 945)	Stipulated	Stipulated		
327	Harbor Physical Therapy 2-27-2019 Note (USAO 938 – 941)	Stipulated	Stipulated		
328	Harbor Physical Therapy 3-4-2019 Note (USAO 934-935)	Stipulated	Stipulated		
329	Harbor Physical Therapy Upper Extremity Patient Outcome (USAO 1026)	Stipulated	Stipulated		
330	Harbor Physical Therapy 3-11-19 Initial Exam (USAO 1027 – 1029)	Stipulated	Stipulated		
331	Harbor Physical Therapy 4-10-19 Note (USAO 1001 – 1002)	Stipulated	Stipulated		
332	Harbor Physical Therapy 4-15-19 Note (USAO 999 – 1000)	Stipulated	Stipulated		
333	Harbor Physical Therapy 4-17-2019 Note (USAO 996)	Stipulated	Stipulated		
334	Harbor Physical Therapy 4-22-19 Note (USAO 994 – 995)	Stipulated	Stipulated		
335	Harbor Physical Therapy 5-6-2019 Discharge Note (USAO 984 - 986)	Stipulated	Stipulated		
336	Harbor Physical Therapy 5-6-19 Progress Note (USAO 988 – 990)	Stipulated	Stipulated		
337	Harbor Physical Therapy Quick DASH from 5-6-2019 (USAO 987)	Stipulated	Stipulated		
338	Harbor Physical Therapy Upper Extremity Patient Outcome 5-6-2019 (USAO 982 – 983)	Stipulated	Stipulated		

339	3-21-2019 Right Knee MRI (USAO 875)	Stipulated	Stipulated		
340	Harbor Physical Therapy Upper Extremity Patient Outcome 3-25-19 (USAO 1026)	Stipulated	Stipulated		
341	Olympia Orthopedic Associates 4-5-2019 Note (USAO 784 – 787)	Stipulated	Stipulated		
342	Olympia Orthopedic Associates 5-29-19 Note (USAO 1070 – 1072)	Stipulated	Stipulated		
343	Olympia Orthopedic Associates Imaging 4-5-2019 (USAO 1724)	Stipulated	Stipulated		
344	YouTube Video Entitled “02 wrx tgv delete in garage getting subie ready for dyno day....stay tuned.mp4”	Stipulated	Stipulated		
345	YouTube Video Entitled “#fly-by in 02 wrx stage2+ with catless downpipe, exhaust, cobb 3port, sf intake, gfb hybrid bov.mp4”	Stipulated	Disputed	FRE 402 - - Relevance	
346	YouTube Video Entitled “06 impreza 2.5I single head plaining #DIY #headresurfacing #subaruheadgasketrepair.mp4”	Stipulated	Stipulated		
347	YouTube video entitled “USAO_2007 AEM 340 fuel pump install in my 02 wrx for 1000cc cobb injectors.mp4”	Stipulated	Stipulated		
348	YouTube video entitled “USAO_2008 April 21, 2020.mp4”	Stipulated	Stipulated		
349	YouTube video entitled “USAO_2009 building custom carbonfiber flares plugs and moldbuilding(1).mp4”	Stipulated	Stipulated		
351	YouTube video entitled “USAO_2011 building molds for custom carbon fiber flares for wrx(4).mp4”	Stipulated	Stipulated		

352	YouTube video entitled “USAO_2012 building molds for custom carbon fiber flares for wrx(5).mp4”	Stipulated	Stipulated		
353	YouTube video entitled “USAO_2013 getting flanges glassed on the plug for the #flares...#bugeye.mp4”	Stipulated	Stipulated		
354	YouTube video entitled “USAO_2014 getting highbuild on plugs.mp4”	Stipulated	Stipulated		
355	YouTube video entitled “USAO_2015 laying molds onto plugs #subaruparts #customparts #carbonfiber #builtnotbought.mp4”	Stipulated	Stipulated		
356	YouTube video entitled “USAO_2016 paint correction.mp4”	Stipulated	Stipulated		
357	TBC Wage Records (USAO 2017-2031)	Stipulated	Stipulated		
358	Hoquiam School District Records (USAO 2063-2154)	Stipulated	Disputed – pages 2114, 2115, 2116-2117, 2140-2148, 2160	Prior DUI is addressed in Plaintiffs’ Motions in Limine. Medical insurance coverage	

				and shared leave are addressed in Plaintiffs' Motion in Limine re: Collateral Source Rule.	
359	Jennifer Johnson's Answers to Interrogatories and Declaration of Jennifer Johnson	Stipulated	Disputed in part: (1) Interrogatory 6 regarding prior bankruptcy, which is the subject of a motion in limine;		

ACTION BY THE COURT

- (a) This case is scheduled for trial without a jury on December 6, 2021, at 9:00 a.m.
- (b) Trial briefs and findings of fact and conclusions of law shall be submitted to the court on or before November 26, 2021.
- (c) (Insert any other ruling made by the court at or before pretrial conference.)

This order has been approved by the parties as evidenced by the signatures of their counsel.

This order shall control the subsequent course of the action unless modified by a subsequent order.

This order shall not be amended except by order of the Court pursuant to agreement of the parties or to prevent manifest injustice.

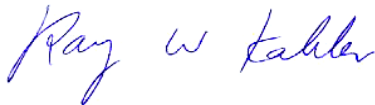
DATED this 1st day of December, 2021.



Marsha J. Pechman
United States Senior District Judge

FORM APPROVED

STRITMATTER KESSLER KOEHLER MOORE



Ray W. Kahler, WSBA #26171
Co-Counsel for Plaintiffs

PARKER, WINKELMAN & PARKER

PRETRIAL ORDER - 33
3:20-CV-5581-MJP

1 

2 Benjamin R. Winkelman, WSBA #33539
3 Co-Counsel for Plaintiffs
4

5 NICHOLAS W. BROWN
6 United States Attorney

7 /s/ Matt Waldrop

MATT WALDROP, GA # 349571

8 Assistant United States Attorney

United States Attorney's Office

9 700 Stewart Street, Suite 5220

Seattle, Washington 98101-1271

10 Phone: 206-553-7970

Fax: 206-553-4067

11 Email: james.waldrop@usdoj.gov
12
13
14
15
16
17
18
19
20
21
22
23
24

PRETRIAL ORDER - 34
3:20-CV-5581-MJP